

**State of California  
Office of Administrative Law**

**In re:**  
**Respiratory Care Board**

**Regulatory Action:**

**Title 16, California Code of Regulations**

**Amend section: 1399.395**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**


**OAL Matter Number: 2018-0403-02S**

**OAL Matter Type: Regular (S)**

In this regular rulemaking, the Respiratory Care Board is increasing (1) the license renewal fee, (2) the delinquency fee for licenses renewed not more than two years from the date of its expiration, (3) the delinquency fee for licenses renewed after two years, but not more than three years, from the date of expiration of the license, and (4) the inactive license fee. All four fees are being increased by 10% for licenses expiring on or after July 1, 2018, by approximately 9.1% for licenses expiring on or after July 1, 2019, and by 10% for licenses expiring on or after July 1, 2020.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2018.

**Date: May 15, 2018**

  
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Steven J. Escobar  
Attorney

**Original: Stephanie Nunez , Executive  
Director**

**For: Debra M. Cornez  
Director**

**Copy: Christine Molina**

**RECEIVED**  
**2018 MAY 17 AM 10:13**  
**RESPIRATORY CARE BOARD**

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2017-1107-05</b>	REGULATORY ACTION NUMBER <b>2018-0403-025</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**MAY 15 2018**  
at 1:36 PM

**2018 APR -3 P 12:27**  
OFFICE OF  
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY  
Respiratory Care Board of California (Department of Consumer Affairs)

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE Fees		TITLE(S) 16	FIRST SECTION AFFECTED 1399.395	2. REQUESTED PUBLICATION DATE November 17, 2017
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Christine Molina	TELEPHONE NUMBER 916.999.2212	FAX NUMBER (Optional) 916.263.7311
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2017, 46-Z	PUBLICATION DATE 11-17-2017

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Fee increases		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
ACTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 16		AMEND 1399.395	
		REPEAL	
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input checked="" type="checkbox"/> Other (Specify) <b>DEAN R. GRAFFLO, DIRECTOR, DEPT. OF CONSUMER AFFAIRS</b>			
7. CONTACT PERSON Christine Molina		TELEPHONE NUMBER 916.999.2230	FAX NUMBER (Optional) 916.263.7311
		E-MAIL ADDRESS (Optional) christine.molina@dca.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Stephanie Nunez, Executive Officer

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED****MAY 15 2018**

Office of Administrative Law

**RESPIRATORY CARE BOARD**  
**Department of Consumer Affairs**  
**California Code of Regulations, Title 16, Division 13.6 Respiratory Care Board**  
**Fees**

## **ORDER OF ADOPTION**

### **ARTICLE 9. FEES**

*Amend Section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations as follows:*

**§ 1399.395. Fee Schedule.**

The following schedule of fees is hereby adopted pursuant to sections 3775 and 3775.5 of the B&P:

(a) Application fee	\$300
(b) Examination fee	Actual cost
(c) Re-examination fee	Actual cost
(d) Renewal fee	<del>\$250</del>
(1) For licenses expiring on or after July 1, 2018, and before July 1, 2019, the renewal fee is	<del>\$275</del>
(2) For licenses expiring on or after July 1, 2019, and before July 1, 2020, the renewal fee is	<del>\$300</del>
(3) For licenses expiring on or after July 1, 2020, the renewal fee is	<del>\$330</del>
(e) Delinquency fee (not more than 2 years after expiration)	<del>\$250</del>
(1) For licenses expiring on or after July 1, 2018, and before July 1, 2019, the delinquency fee is	<del>\$275</del>
(2) For licenses expiring on or after July 1, 2019, and before July 1, 2020, the delinquency fee is	<del>\$300</del>
(3) For licenses expiring on or after July 1, 2020, the delinquency fee is	<del>\$330</del>
(f) Delinquency fee (after 2 years but not more than 3 years after expiration)	<del>\$500</del>
(1) For licenses expiring on or after July 1, 2018, and before July 1, 2019, the delinquency fee is	<del>\$550</del>
(2) For licenses expiring on or after July 1, 2019, and before July 1, 2020, the delinquency fee is	<del>\$600</del>
(3) For licenses expiring on or after July 1, 2020, the delinquency fee is	<del>\$660</del>
(g) Inactive license fee	<del>\$250</del>
(1) For licenses expiring on or after July 1, 2018, and before July 1, 2019, the inactive license fee is	<del>\$275</del>
(2) For licenses expiring on or after July 1, 2019, and before July 1, 2020, the inactive license fee is	<del>\$300</del>
(3) For licenses expiring on or after July 1, 2020, the inactive license fee is	<del>\$330</del>
(h) Duplicate license fee	\$25
(i) Endorsement fee	\$25

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3775 and 3775.5, Business and Professions Code.

# **FINAL STATEMENT OF REASONS**

Hearing Date: January 2, 2018

Subject Matter of Proposed Regulations: Biennial Renewal, Delinquent, and Inactive Fee Increases

Section Affected: Section 1399.395 of Division 13.6, Title 16 of the California Code of Regulations (CCR).

## Updated Information

The Initial Statement of Reasons is included in the file. No changes have been made which would warrant a change to the information contained therein.

Two sets of nonsubstantive changes were made to each paragraph being adopted in this rulemaking. The first change without material effect states that the fees in paragraphs (1) and (2) apply to licenses that are also expiring before July 1, 2019 and July 1, 2020, respectively. This is a change without material effect because the only way to harmonize the proposed fee increases and give paragraphs (2) and (3) in each subdivision any effect is if the prior fee amount is limited in duration to one year.

The second nonsubstantive change to each paragraph is changing the phrase "shall be" to "is" for grammar purposes.

## Local Mandate

A mandate is not imposed on local agencies or school districts.

## Small Business Impact

This action will not have a significant adverse economic impact on small businesses. This initial determination is based on the fact that licensees will be required to incur a 10 percent step increase in biennial renewal fees ranging from \$25 - \$30. Licensees will initially be subject to a \$25 increase in their renewal fee in FY 18/19 and FY 19/20, and a \$30 increase in their renewal fee in FY 20/21. Delinquent renewals within two years of the license expiration date will be subject to an additional \$25 - \$30 increase in the delinquency fee. Delinquent renewals two years after the license expiration date will be subject to an additional \$50 - \$60 increase in the delinquency fee over a period of three years.

This proposal benefits consumer protection as it is designed to enable the Board to maintain its licensing and oversight operations while also ensuring significant surpluses are not created. The proposed fee increase ensures licensing revenues are more in line with expenditures, thereby protecting the Board's fund from insolvency.

### Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The following alternatives were considered and rejected for the reasons set forth below:

1. Do not seek a regulatory change.
2. Reduce program expenditures by eliminating staff PYs.

Reason for rejection: Pursuant to Business and Professions Code section 3710.1, "Protection of the public shall be the highest priority for the Respiratory Care Board when exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interest sought to be promoted, the protection of the public shall be paramount." When considering the alternatives, the Board determined that without adequate resources, it would be thwarted in its efforts relative to the performance of its licensing and enforcement responsibilities, potentially resulting in an adverse impact on California's respiratory care consumers. Instead, this proposed regulatory change provides the Board with the means and resources to uphold its consumer protection mandate.

### Objections or Recommendations/Responses

There were no written or oral comments received regarding the proposed action during the comment period or the public hearing.

### Finding of Necessity

The Respiratory Care Board of California hereby finds that this proposed amendment is necessary for the public health, safety, and welfare of consumers. This proposal ensures sufficient resources are available to maintain current operations which allow the Board to meet its mandate of consumer protection. As specified in Business and Professions Code section 3710.1, protection of the public shall be the highest priority for the Board when exercising its regulatory functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.